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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,085	01/03/2007	Paolo Rossin	163-651	1163
47888 7590 06/20/2008 HEDMAN & COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036				
EXAMINER DANG, HUNG XUAN				
ART UNIT 2873		PAPER NUMBER		
MAIL DATE 06/20/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/543,085

**Applicant(s)**

ROSSIN, PAOLO

**Examiner**

HUNG X. DANG

**Art Unit**

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 March 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3 and 5-9 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 1 is/are allowed.  
6) ☒ Claim(s) 3 and 5-9 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

1. The amendment filed on 3/7/08 has been entered.

### **Claims Rejection Under 35 U.S.C. 112-1<sup>st</sup>**

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 5 and 6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The original disclosure does not support for the combination of the amended claim 1 and claim 5. The disclosure does not support for the first and second magnetic (15, 16) are positioned overlapping are respectively equipped with a pin (19) and a complementary seat (20) designed to define an axis of rotation (11) and said hinge device (14) **as recited in amended claim 1** and said cylinder (15) engaging slidably in said casing portion (16) **as recited in claim 5**.

The original disclosure does not support for the combination of the amended claim 1 and claim 6. The disclosure does not support for the first and second magnetic (15, 16) are positioned overlapping are respectively equipped with a pin (19) and a complementary seat (20) designed to define an axis of rotation (11) and said hinge device (14) **as recited in amended claim 1** and the first and second magnetic element (15, 16) are positioned engaging side by side **as recited in claim 5**.

**Claims Rejection Under 35 U.S.C. 112**

**3. The following is a quotation of the second paragraph of 35 U.S.C. 112:**

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3 and 5-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 3 and 5-9, the numerals in the parentheses make the claims vague and confuse.

Claim 3 is vague and indefinite because the first magnetic (15) is held on a perimetric portion (17) with a lateral extension (18) and the second magnetic (16) is held on a perimetric portion (17) with one end of the temple (13). The first magnetic (15) cannot with one end of the temple (13) or the second magnet (16) cannot with a lateral extension (18) as recited in claim 3.

Claim 5 is vague and indefinite because reference character (15) has been used to designate both **first magnetic** and **a cylindrical** and reference character (16) has been used to designate both **second magnetic** and **a casing portion**.

Claim 7, what is a different between a complementary seat in claim 1 line 10 and a complementary perimetric seat in claim 7, line 3?

Claim 8, a frame for eyeglasses (10, 10', 10", 100) is vague and indefinite because a frame for eyeglasses (10', 10", 100) do not support for the combination of amended claim 1 and claim 8.

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Claim 9, a frame for eyeglasses (10, 10', 10'', 100) is vague and indefinite because a frame for eyeglasses (10', 10'', 100) do not support for the combination of amended claim 1 and claim 9.

Claim 9 is vague and indefinite what is a different between the first and second magnetic elements (15, 16) as recited in claim 1 and a magnetic element (16), a corresponding magnetic element (15) as recited in claim 9?

Claims 8 and 9 being of improper dependent form for failing to further limit the subject matter of a previous claim 1. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form.

#### **Claims Allowable**

4. Claim 1 is allowed.

#### **Reasons For Allowance**

5. The following is an Examiner's Statement of Reasons for Allowance:

The prior art fails to teach a combination of all the claimed features as present in independent claim 1, which include the first and second magnetic element are positioned engaging overlapping and additionally characterized in that the first and the second magnetic element positioned overlapping are respectively equipped with a pin and a complementary seat designed to define an axis of rotation of the hinge device.

Applicant's arguments with respect to claims 3, and 5-9 have been considered but are moot in view of the new ground(s) of rejection.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication should be directed to Examiner Dang at telephone number (571) 272-2326.

6/08

/Hung X. Dang/

Primary Examiner

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